STATEMENT BY

DEPUTY UNDER SECRETARY OF DEFENSE

(ACQUISITION REFORM)

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ON

ACQUISITION REFORM

BEFORE

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

COMMITTEE ON ARMED SERVICES

UNITED STATES SENATE

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We have in the past built the best weapon systems in the world, thanks to the ability and dedication of the people in DoD and industry. We know, however, that they were able to achieve this success -- often not because of the system, but in spite of it. We can no longer afford to fight the bureaucratic and rule driven system -- we must be able to take advantage of the professionals we have in the acquisition workforce and allow them to exercise their judgment in making sound business decisions on behalf of the U.S. Government.

In addition, new national security challenges requires us to design a more flexible, agile, and timely acquisition process capable of meeting unpredictable needs. Declining budgets require us to become more efficient and effective, as well as to reduce the costs of our products and services. Finally, technology is developing at an even faster pace, is more often than not led by the commercial sector, and is available to the world. To maintain our technological superiority we must have access to the latest state-of-the-art commercial technology.

DoD, as an enterprise, must respond to these changes in every facet of how it accomplishes its mission -- and the acquisition system is no exception. The bottom line is -- that we must design an acquisition system that can get out in front of these new challenges instead of reacting to them.

I appreciate the opportunity to be here today to address:

- why the continuous improvement of the acquisition process that has been occurring within DoD on an ongoing basis is no longer sufficient;
- what we are doing to totally reengineer the acquisition system to improve its responsiveness, reduce its cost, and facilitate the merger of the defense and commercial industrial bases;
- some of our accomplishments to date and a number of our on-going acquisition reform efforts; and finally,
- to highlight a few issues that we desperately need your help on -- because they require legislative changes, this session, and preferably within the next few months.

DoD's ACQUISITION REFORM VISION, GOALS AND ACTIONS

First, I would like to identify the five critical elements of the draft DoD vision statement of the characteristics of its reengineered acquisition system. Then, explain what legislative assistance we need to further those goals and objectives.

MEET WARFIGHTER NEEDS

In addition to the more specific and actionable goals, there is one over-arching goal upon which there is no disagreement: **The primary mission of the acquisition system is to *Meet Warfighter Needs* -- we must never forget that meeting the customer's needs is paramount.**

WORLD'S SMARTEST BUYER

The second of the five critical elements of DoD's vision of its reengineered acquisition system is to **be the *World's Smartest Buyer***, utilizing a reengineered acquisition process that encourages continuous learning and process improvement; where change is a constant rather than an exception; where there is constant, timely, and effective communication of acquisition reform messages; where there are incentives for personnel to innovate and to manage risk rather than avoid it; and where maximum advantage is taken of emerging technologies, particularly management information systems, that enable business process reengineering and enterprise integration.

ACTIONS TAKEN OR IN THE PROCESS OF BEING IMPLEMENTED:

- Establishing and continuously updating a step-by-step strategic plan of action to implement and institutionalize acquisition reforms. (Secretary Perry's memorandum: *Acquisition Reform: A Mandate for Change*; Under Secretary Kaminski memorandum on Goals, Objectives and Actions to be Taken (not final at this time).

- Changing behavior by communicating a common acquisition reform message to the people we need to engage for lasting success; focusing on learning not broadcasting; promoting the use of success stories, lessons learned, incentives and recognition programs; and, getting the right message to the right audience, the right way and at the right time. (Creation of the Acquisition Reform Communications Center and joint DoD team to coordinate and facilitate acquisition workforce education and training efforts).

- Providing incentives for acquisition personnel to innovate, while providing appropriate guidance, and the benefit of "lessons learned" in the past, by redesigning the purpose and approach of both the Federal and DoD acquisition regulations and policies, so they can better facilitate the acquisition process (e.g., by encouraging risk management rather than avoidance). (Automated Acquisition Information System composed of an "Acquisition Reference Set" or "Systems Acquisition Deskbook," "Interactive Tools," and a "Catalog" or "Index;" rewrite DoDD 5000.1 and DoDI 5000.2; proposed rewrite of the Federal Acquisition Regulations).

- Creation of a DoD and government-wide Electronic Commerce/Electronic Data Interchange System for contracting that will provide "one face to industry," will allow vendors to interrogate the DoD database of all outstanding Requests for Quotations, etc., by using a Value Added Network of their choice. (EC/EDI Process Action Team).

PROCURING BEST-VALUE GOODS AND SERVICES

DoD will ***Procure Best-Value Goods and Services***, by buying from world class suppliers, who are part of a national, as opposed to defense unique, industrial base, composed predominantly of commercial or dual-use suppliers capable of meeting DoD's needs and willing to sell to the U.S. government; and by using commercial practices to the maximum practicable extent, in order to ensure access to state-of-the-art technology, reduce the cost of products and services to the government, and reduce acquisition leadtimes.

ACTIONS TAKEN OR IN THE PROCESS OF BEING IMPLEMENTED:

- Eliminating DoD-unique product or process specifications that inhibit the purchase of commercial items or services, or dictate to a contractor how to produce a product or provide a service. (SecDef memorandum of June, 1994 requiring use of performance specifications; military specs authorized only if waiver provided by the Milestone Decision Authority).

- Use commercial practices to acquire military unique items, as well as commercial items, to the maximum extent practicable. (Pilot Programs authorized in FASA '94).

- Establish and maintain more effective working relationships with industry use of Integrated Product and Process Teams. (Policy memorandum to be issued within the next few weeks as a result of the Oversight and Review Process Action Team report; input from the Defense Manufacturing Council meeting with DoD Program Managers, Program Executive Officers, and SysCom Commanders).

DELIVERING EFFICIENTLY AND ON A TIMELY BASIS

DoD will establish and maintain the most **timely, flexible, responsive, and efficient system**, where individuals or teams are accountable for an entire process and can change the process without inordinate difficulty or delay, and success is judged on the basis of performance related metrics rather than adherence to regulations.

ACTIONS TAKEN OR IN THE PROCESS OF BEING IMPLEMENTED:

- Maximizing the use of simplified acquisition procedures. (FASA '94 authorizes use of simplified acquisition procedures up to $50,000 once regulations issued; $100,000 once certified FACNET system in place at that activity).

- Improving the Service and OSD milestone decision-making and information collection processes for major systems, commensurate with risk, dollar value, acquisition strategy, etc., to: establish appropriate levels of service and OSD value-added management, assistance, and oversight; identify appropriate issues for review; ensure that reviews occur at the appropriate time during the program; ensure that reviews foster agreement on appropriate levels of program risk; and ensure that reviews revalidate the chosen system solution to meet a needed military capability, given program risk, cost, schedule, reliability and maintainability, industrial base, and performance considerations. (Implementation of Oversight and Review Process Action Team recommendations).

- Making DoD organizations (with the exception of those whose mission is to perform inspections) value-added team participants not "second guessers" or inspectors (both in relation to other organizations in the Department, and with respect to DoD's suppliers). (Development of IPT concept policy guidance; implementation of Contract Administration Process Action Team recommendations).

- Streamlining and making more effective and realistic developmental, live-fire, & operational testing. (Minor changes in DoD Authorization Bill proposal; major changes not yet agreed to).

- Shifting, to the maximum extent practicable, from a management philosophy that attempts to achieve high quality and performance through after-the-fact inspection, to government review of contractor process controls and review of output. (Issuance of SecDef memo authorizing use of ISO 9000 standard in place of MilQ 9858A).

- Ensuring that DoD emulates the best procurement practices (e.g., timely, responsive, flexible and efficient) of world-class customers and suppliers including: using performance based and fixed price service contracts; rewarding past contractor performance in source selection; identifying and disseminating best procurement practices; eliminating non-value added activities -- duplicative reviews, revisiting decisions, and non-hands-on labor.

- Ensuring that internal and external oversight and review are necessary to ensure compliance with enunciated policies or requirements, and are performed in the least obtrusive manner necessary to add value to either the overall process or the particular acquisition, consistent with the risk of impact to the government in the absence of such oversight and review. (Implementing recommendations of Contract Administration PAT).

- Eliminating functional stove-pipes and replacing them with integrated decision teams that provide the necessary cross-section of functional "expertise" and organizational input to address and resolve acquisition issues at the lowest possible management level.

- Updating laws regarding foreign contracting and contingency operations, the lending/borrowing of defense equipment, and "war risk" to contractor personnel. (Proposed to be added to FASA '94; will be resubmitted in FY 96 DoD Authorization Bill).

- Establishing clear process and outcome (performance-related) measures to determine success of change efforts. (Reconstitution of Pilot Program metrics group to address all metrics, with the assistance of other organizations in particular fields, such as the Standards Improvement Council).

BALANCING COST OF PROTECTIONS AND APPLICATION OF SOCIO-ECONOMIC OBJECTIVES

Eliminating, to the maximum extent practicable, government unique terms and conditions, unless that particular aspect of the buyer-seller relationship is not adequately "regulated" by market forces; the financial and ethical integrity of the government acquisition process is not adequately protected; or, the furtherance of national domestic policies justify the use of a government-unique term or condition. If so, there should be a better balancing of the risk of abuse of the process and the benefits of socio-economic gains to be achieved, with the cost of compliance with government-unique rules for both the government and industry.

- Proposing and working for the adoption of exemptions to the application of government-unique rules and regulations from commercial products and purchases under the simplified acquisition threshold.

ADMINISTRATION PRIORITY ITEMS FOR 1995 LEGISLATIVE ACTION

There are a number of legislative changes the Department believes are critical to the its continuing efforts to reengineer its acquisition processes and attain the vision outlined above. I have included in my written testimony an explanation of as many of the proposals in the administration request, and those proposed for inclusion in the FY96 National Defense Authorization Bill as possible. Today, I would like to highlight for you only the priority issues.

PROTEST REFORM

The most critical issue to the Administration, including DoD, is to reduce the number of bid protests. Bid protests are highly disruptive of the procurement process. As noted in a recent GAO report on information technology procurements, protested procurements take approximately 30-40% longer to award than contracts that are not protested, and almost 40% of the governments information technology contracts are protested. The Administration's protest reform proposals are intended to improve the efficiency and timeliness of the acquisition process by significantly reducing the number of protests that are filed, while continuing to safeguard the interests of those unfairly treated in the acquisition process.

- ***Establishing a uniform scope and standard of review in all judicial and administrative protest fora is the single most important proposal in the protest area.***

Currently, the General Services Board of Contract Appeals (GSBCA), which has jurisdiction to review the preponderance of information technology (IT) protests, reviews protests with virtually no limits on the evidence that protesters are able to present to the Board. Protesters are allowed to introduce, and agencies are required to defend their decisions, in light of evidence beyond that contained in the agency's file, even if such evidence was never brought to the attention of the agency nor available to the contracting officer at the time the decision was made. This review is both costly and labor intensive. Suggestions to reform the IT protest process made in a recent Senate report (see Computer Chaos: Billions Wasted Buying Federal Computer Systems, Investigative Report of Senator William S. Cohen, October 12, 1994) called into question the benefits of subjecting a deliberative decision by the agency to review based on a new record hastily created in an adversarial proceeding.

Furthermore, the GSBCA reviews government decisions *de novo* and, unlike review of agency actions in other fora, gives little if any deference to the government action. This "second guessing" standard of review is extremely detrimental to the exercise of sound judgment by a contracting officer, particularly where an award is intended to be based on a "best value" determination. For example:

- In a recent Air Force IT procurement, the GSBCA upheld a protest where the Source Selection Authority chose to rely on the protester's disastrous past performance on prior government contracts to decide to award to a higher priced and technically superior offeror. The government's estimated costs of

defending that protest included over $100,000 in direct costs, with another $50,000 in government labor costs (legal and other). These amounts do not include the award of costs to the protester (estimated at $500,000) nor the costs that will be incurred by the government in conducting a reprocurement.

- In B3H Corp. v. Department of the Air Force, (July 8, 1994), a 15% price differential was weighed against technical superiority and the decision was made to award to the technical superior offeror. All five technical factors weighed in favor of the awardee. The Board found that the evaluation of one technical factor lacked a rational basis and, on that ground alone invalidated the award, notwithstanding the fact that the solicitation had listed technical as the most important factor. The result of this decision is that agencies are forced to quantify the technical superiority of the higher rated offeror, where it is higher in price, which is difficult, if not impossible, to accomplish. This decision is on appeal and the final costs are therefore not ascertainable.

The Administration's proposal would require that the board uphold a protest only if the disappointed bidder is substantially prejudiced and either (i) that the decision was obtained in violation of procedures required by law or regulation, or (ii) that the decision was arbitrary or capricious. The National Performance Review has endorsed this type of review because it holds decision makers accountable for their actions, without curtailing innovation and creativity through a fear of being second-guessed. It would also help to avoid the type of wasteful effort on protest avoidance (extensive agency documentation and quantification of decision-making process) that the Senate report found was occurring in IT acquisitions.

- ***Providing a means for expeditious and fair resolution of contract protests (and claims) through uniform interpretation (by a single court, rather than any district court) of laws and implementing regulations precludes forum shopping, and can be accomplished by consolidating court jurisdiction in the Court of Federal Claims and divesting the district courts of bid protest jurisdiction.***

- ***Giving agencies the same authority to proceed with a procurement even if award of the contract has been protested at the GSBCA (just as they have at the GAO) preserves the agencies' (who are in a better position to know the urgency of their requirements) authority to proceed with the acquisition while a protest is pending when the agency determines that it is in the government's best interests***.

- ***Directing that dispositive motions must be decided prior to a hearing on the merits, would enable agencies to minimize delays in the delivery of program benefits by requiring both the GAO and GSBCA to decide dispositive motions before proceeding with a full hearing of the protest on its merits.***

- ***Giving agencies authority to bring interlocutory appeals to correct erroneous GSBCA rulings on three types of dispositive motions (that the procurement is not subject to the Brooks Act, the protest is not timely filed, or the party filing the protest is not an "interested party") instead of waiting for a determination of the protest on its merits .***

Currently, agencies must wait until the protest is decided on the merits before obtaining a ruling on agency motions that would otherwise dispose of the protest. As a result, protests are often unnecessarily prolonged as discovery continues and the merits

are heard, briefed and decided. In addition, even where a dispositive motion has been decided by the GSBCA, an agency is unable to seek judicial review of that decision until a final decision is made on the merits of the protests. The effort needed to obtain a ruling on a dispositive motion or seek judicial intervention on any of these three issues is very small when compared to the resources the parties must expend to conduct full discovery and proceed on the merits, particularly before the GSBCA. By requiring early decision on and allowing early judicial resolution of dispositive issues, these provisions will save all parties concerned considerable time and money in addition to minimizing unnecessary delays in the achievement of agency program goals.

- ***Declaring a Sense of Congress that agencies should develop procedures for senior level protest resolution and directing that protesters use the agency protest procedure, if available, before costs could be awarded by another forum would guarantee fast, cost and effective resolution of protests.***

The Army Material Command has currently in place a voluntary senior level agency review program for disappointed bidders or offerors. Within 20 days after a protest has been filed with the agency, the agency headquarters must make a final decision on the legitimacy of a contract award. That final decision is binding on the agency and its procuring activities. During this process, award is withheld and work stopped unless there is an agency override. Since this program's inception, 290 protests have been reviewed in this venue, each in an average of 15 working days at an average government cost of $13,686. Only 32 of these AMC decisions have been appealed to the GAO or GSBCA. Of those, 30 were decided in favor of AMC.

- **Frivolous protests by contractors could be reduced by authorizing GAO to recommend, and GSBCA to direct, an award of costs to the government when a contractor files a frivolous protest.**

Since GAO may not direct an executive agency, guidance will be added to the FAR to permit an agency head to initiate action to collect payment from a contractor based upon a GAO recommendation.

- ***Requiring that the Federal Acquisition Regulation be amended to disallow those costs incurred in preparation, filing, or pursuit of a protest, including attorneys' fees and consultant and expert witness will prevent unsuccessful protesters from being able to recoup their protests costs by including such costs in their indirect overhead accounts on other government contracts.***

- ***Permitting offerors to agree not to protest a procurement diminishes the disadvantage incurred by companies that, as a policy matter, refrain from protesting agency errors that do not invalidate the basic rationale for the agency's contract award decision even though other companies adopt the strategy of protesting every government error no matter how insignificant.***

The refraining companies have adopted a broader perspective that considers the costs of such a strategy -- in terms of legal fees, longer acquisition lead-times, and reduced government buying power, and determined that they far outweigh the benefits of harassing their competitors or reversing a few awards they might otherwise have lost. The refraining companies want to focus their efforts on achieving competitive advantage

through improved product design, innovation and value rather than through legal argument. This proposal allows offerors to agree to refrain from protesting decisions favoring other offerors as long as those other offerors have also agreed to refrain from protesting. An offeror's decision to sign-up or not to sign-up to the agreement to refrain from protesting will not be taken into consideration in evaluating its proposal.

- ***Exempting procurements under the Simplified Acquisition Threshold and made on FACNET from all protest procedures would reduce acquisition costs by reducing lead time and government personnel necessary to respond to protests*.**

Procurements using Simplified Acquisition Procedures and the FACNET include inherent safeguards that make abuse of the process almost impossible. Given the limited ability to skew such procurements, the cost of the bid protest process (including the behavior it causes in contracting offices) is not justified.

PROCUREMENT INTEGRITY REFORM

- ***Amending the procurement integrity law to focus on the improper disclosure or obtaining of contractor bid or proposal or source selection information, rather than on whether the information was disclosed or obtained by a person having the status of a "procurement official" or a "competing contractor" would significantly simplify the application of the law yet still ensure protection of the information until contract award.***

Unauthorized access to a competitor's bid or proposal information or the agency's source selection information may provide a bidder or offeror an opportunity to obtain an unfair advantage in competing for a Government contract. The Government has a substantial interest in maintaining a level playing field for all competitors for Government contracts and any perception that the process is unfair is likely to discourage potential competitors. The net result of diminished competition in Government procurements is increased costs to the Government, whether because of a higher contract price or less satisfactory products or performance. The proposed amendments would provide needed protections to ensure that competing contractors do not obtain access to information that would give them an unfair competitive advantage and, thereby, jeopardize the integrity of the procurement process.

Anyone who had access to that information by reason of being an employee of the United States or acting for or advising the United States with respect to the particular procurement would be prohibited from such disclosure and subject to both criminal and civil penalties for violations.

EMPOWERING LINE MANAGERS (CONTRACT AWARD ITEMS)

- ***Increasing the dollar thresholds for approvals at higher levels of individual Justifications for Other than Full and Open Competition, and exempting agencies that conduct a high percentage of competitive acquisitions from having to get sole source justifications approved at higher organizational levels as long as they maintain these high standards, would provide an incentive for agencies to maintain high levels of competition, and would allow front-line procurement professionals to exercise their judgment without the fear of constant second-guessing by higher level officials.***

Note: levels for DoD are different than for the civilian agencies because they are set to coincide with approval authorities for major defense systems, and in recognition of the higher value contracts let by DoD organizations with the same titles as civilian agency organizations.

- ***Vesting the authority for making certain contracting decisions (e.g., using qualification requirements, and waiving cost or pricing data requirements in certain circumstances, etc.) in the contracting officer will empower front-line personnel, and eliminate paperwork and other substantial administrative burdens associated with higher-level approvals.***

- ***Allowing an agency to begin a procurement by soliciting product information based on a statement of what the agency believes are its needs and then to tailor that solicitation based on information provided by offerors concerning the capabilities of their products and their suggestions on how the agencies' needs can best be met would increase greatly agencies' ability to gain ready access to products and technologies in the commercial market; give contracting officials a very effective means for obtaining the information required to identify suitable commercial products available; and to acquire the best value product or service within reasonable time frames.***

This proposal would allow agencies to obtain products suitable for their needs without over-specifying. Developing specifications that address every product characteristic necessary to ensure suitability is difficult, time consuming and futile given the fast pace of product evolution that occurs in today's commercial market. Inevitably, the resulting specifications unnecessarily limit competition by barring suitable alternative and innovative designs.

- ***Allowing agencies to limit the number of offerors in the competitive range to three when the contracting officer determines such action is warranted by considerations of efficiency, would enable agencies to expedite the procurement process, and will allow offerors that do not have a real chance of receiving award to save time and money by being removed sooner rather than later in the process.***

After initially evaluating each offeror's proposal, agencies now, according to General Accounting Office (GAO) and General Services Administration Board of Contract Appeals (GSBCA) decisions, must look for the "natural break" in making a competitive range determination. If there is any question as to whether an offeror should be included in the competitive range, the offeror is kept in the competitive range. The result is that, in

order to avoid a protest, agencies generally will not leave any offeror out of the competitive range unless that offeror clearly has no chance whatsoever of being awarded the contract. Thus, many contractors who have no real chance of winning the award continue to incur bid and proposal costs, and the government if forced to expend precious resources evaluating bids that have no chance of winning.

- ***Requiring that an offeror request a debriefing within three days of receiving notice that the offeror has been removed from the competitive range will increase efficiency and better maintain the integrity of the source selection process by giving the agency the opportunity to decide to debrief the offeror at that time or after contract award, whichever is most appropriate given the particular acquisition.***

Logically, a competitive range cut is when an "adverse decision" has been made as far as the offeror is concerned. Therefore, it should start the offeror's time running for requesting a debriefing. The three day window to request a debriefing provided for in this paragraph is identical to the three day window provided for other offerors under the Federal Acquisition Streamlining Act (FASA) and codified at title 10, United States Code, Section 2305(b)(5). The agency should retain the flexibility to give an immediate debriefing or to wait until after contract award. The offeror's time to protest would not begin until after the debriefing occurred.

- ***Authorizing the establishment of two-phase selection procedures, and award of a single contract for design and construction, lease-construction, or information technology procurements, etc., that require substantial system design or integration work, would be more efficient in certain instances.***

This proposal would add a new section to Title 10 authorizing two-phase selection procedures, and the award of a single contract, as an alternative to the traditional approach of a contract for design services followed by a separate contract for construction or other services. Agencies would be authorized to use two-phase selection procedures for acquiring the design and construction ("design-build") of a public building, or other work of a similar nature, when certain criteria are met. The "two-phase" approach to project delivery involves awarding a single contract for design and construction.

STREAMLINING SMALL BUSINESS

- ***Amending the Small Business Act to authorize SBA to permit contracting activities to award 8(a) contracts directly to small and disadvantaged business firms (eligible program participants) unless the contracting officer or the small and disadvantaged business firm specifically requests the SBA to be a signatory to the contract would significantly streamline and simplify the 8(a) program.***

This delegation need not affect any other assistance that SBA offers to small and disadvantaged businesses. In addition, SBA would be able to revoke the delegation, at any time prior to the issuance of the solicitation, if such an action is determined to be in the best interest of the program or the small and disadvantaged business firm.

Under current law and regulations, contracts are awarded to small and disadvantaged businesses under the 8(a) program of the Small Business Administration(SBA) by the contracting activity awarding a contract to the SBA and SBA awarding a subcontract to the small and disadvantaged business. Normally, both the contract and the subcontract contain or reference a "tripartite agreement" which, among other things, permits the contracting activity to bypass the SBA for most contract administration matters and gives the small disadvantaged business the benefit of the "changes" and "disputes" clauses.

SAT/FACNET/PROCUREMENT NOTICE

- ***Exempting a contracting activity from the requirement to delay award until 15 days after publishing a solicitation, if a prior synopsis provides all of the information required to be in a CBD solicitation notice, would streamline the procurement process by eliminating unnecessary actions, save time, and enhance responsiveness to their customers.***

This proposal gives contracting officers flexibility to compress solicitation timeframes when business needs and marketplace support doing so.

- ***Exempting procurements above the SAT, if accomplished on FACNET, from the procurement notice synopsizing requirements, and permitting the establishment of flexible wait periods before contract award, will greatly streamline the procurement process in terms of time and resources required.***

DEFENSE UNIQUE PROPOSALS BEING CONSIDERED FOR INCLUSION IN THE ADMINISTRATION'S PROPOSED FY 96 DEFENSE AUTHORIZATION BILL REQUEST

- **Defense Acquisition Pilot Programs**

Sound management of our Defense acquisition programs is inhibited by a myriad of laws and regulations which are not applicable to the commercial sector. Authority to use pilot programs to test relief from these requirements is essential to shift to commercial item acquisition and practices by DoD.

This proposal expands the range of statutory waivers available to FASTA-authorized pilot programs to:

- Permit decisions concerning developmental and operational testing to be made by the milestone decision authority (MDA) not by the OSD OT&E Director;
- Allow use of standard commercial warranties against manufacturer's defects;
- Allow program status reports in a format set by DoD regulation; (vice unique Selected Acquisition Report/Unit Cost Report formats);
- Eliminate the separate manpower analysis; and,
- Allow the independent cost estimate to be done at MDA level (vs. OSD CAIG).

It also authorizes one new system, and one facility, pilot program.

- **Testing.**

The testing process must be streamlined to produce greater testing efficiency and affordability when procurement accounts are being drastically reduced, and the SecDef authorized to expand the use of contractors if impartiality is assured.

This section makes minor clarifications, authorizes testing methods that would make more efficient use of diminishing RDT&E and Production funds, and better utilizes the expertise of contractor personnel (i.e., the system contractor would be allowed to provide analytic and logistics support; a contractor could support both developmental and operational test analysis; but could not establish criteria for data collection, performance assessment or evaluation activities).

- **Waivers from Cancellation of Funds ("M Accounts").**

Would authorize two categories for which funds will remain available for obligation (without time limit) until the contract purpose is achieved.

- Satellite incentive fees (funds available until fee is earned).
- Shipbuilding (funds available for contract price adjustments, close-out costs, settlement of claims, etc.).

- **Competitiveness of United States Companies.**

Many manufacturers of weapons systems for the DoD rely on FMS to keep their production rates at an efficient level, benefiting DoD and the taxpayer by keeping unit prices low. However, these manufacturers must be able to compete fairly on the world market against foreign manufacturers.

This proposal would repeal the requirement to recoup non-recurring R&D charges on products sold through the Foreign Military Sales program.

- **Defense International Agreements**

International military and other cooperative efforts are more frequent and more diverse in nature in the post cold war era; policy on use of international agreements should be clear and should include consideration of effect of agreements on U.S. industry.

Establishes requirements regarding, and clarifies how defense international agreements are made and implemented.

- **Offset Policy**

The Secretary of Defense should be informed about excessive offset arrangements in foreign military sales so that an adequate U.S. technology base may be preserved.

Consolidates existing language defining offset policy and adds reporting requirement for U.S. firms that contract to sell a weapon system or defense-related item to a foreign country or firm if the contract is subject to an offset arrangement greater than $50 million.

- **Cooperative Projects**

The Secretary of Defense should have complete authority to conduct cooperative projects, particularly where international actions are more frequent and more diverse in nature in the post cold war era.

Consolidates existing 10 U.S.C. 2350a and 2350b; eliminates the need to cross-reference the Arms Export Control Act.

- **Cooperative Logistic Support Agreements**

More effective use of U.S. facilities must be achieved as their workload decreases. Permitting organic DoD depots to compete for NATO Maintenance and Supply Organization (NAMSO) is critical to that goal.

Incorporates existing 10 U.S.C. 2350d into new consolidated defense trade chapter in title 10, with changes to permit organic DoD depots to compete for NATO Maintenance and Supply Organization (NAMSO) work on a cost reimbursement basis.

- **Loan of Materials, Supplies, and Equipment for Research and Development Purposes**

Greater flexibility in international military efforts, especially authority to make or accept loans from friendly foreign countries, is necessary where international actions are more frequent and more diverse in nature in the post cold war era.

Incorporates existing 22 U.S.C. 2796d to consolidate laws relating to international cooperative programs in Title 10; changes “NATO or major non-NATO ally” to “friendly foreign country” to expand the Secretary of Defense’s authority to make or accept these loans.

- **Exchange of Personnel**

Enhanced international communications and better international working relationships are critical to the DoD’s ability preserve peace in the post Cold War era.

This proposal provides statutory authority to exchange personnel between DoD and Foreign Defense Departments or Ministries.

- **Acquisition, Cross-servicing Agreements, and Standardization**

Greater flexibility in international military efforts is necessary where these actions are more frequent and more diverse in nature in the post cold war era.

This proposal relocates statute to a new consolidated chapter, retains statutory provisions on acquisition and cross-servicing agreements; adds provisions on operational and burdensharing agreements, and NATO standardization.

- **Procurement of Communications Support and Related Supplies and Services**

Greater flexibility in international military efforts is necessary where these actions are more frequent and more diverse in nature in the post cold war era.

Consolidates 10 U.S.C 2350f with an amendment to permit the furnishing of temporary reciprocal communications support, and supplies and services, without formal agreement for not longer than 90 days.

- **Authority to Accept Contribution**

Greater flexibility in international military efforts is necessary where these actions are more frequent and more diverse in nature in the post cold war era.

Consolidates 10 U.S.C 2350g with an amendment to permit direct payment or contribution from a foreign country in accordance with a mutual defense agreement, to be credited to appropriations available for that fiscal year.

- **Standardization of Equipment with NATO Members**

Standardization with NATO is of increasing importance because of greater international cooperation in post cold war era.

This proposal relocates a statute to a new consolidated chapter and adds certain reporting requirements.

- **Policy Objectives Relating to Defense International Trade**

Policies related to coordination between domestic defense acquisition practices with both defense trade and cooperation and foreign military sales and assistance must be clearly stated because the post Cold War era will see greater reliance and emphasis on defense trade and cooperation.

This proposal would establish an express Congressional policy that the U.S. attain national defense technology and industrial base objectives by fully coordinating domestic defense acquisition practices with both defense trade and cooperation (Chapter 173) and foreign military sales and assistance (Title 22).